

The opinion in support of the decision being entered today was *not* written for publication and is *not* binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte GINA C. EUBANKS

Appeal 2007-0697
Application 09/661,578
Technology Center 2100

Decided: April 25, 2007

Before JAMES D. THOMAS, JOSEPH F. RUGGIERO, and JAY P. LUCAS, *Administrative Patent Judges*.

THOMAS, *Administrative Patent Judge*.

DECISION ON APPEAL

This appeal involves claims 1 through 30. We have jurisdiction under 35 U.S.C. §§ 6(b), 134(a).

Representative independent claim 1 is reproduced below:

1. A computer implemented method for facilitating a transaction between a subscriber and a vendor through an intermediary, said method comprising steps of:

a) receiving at said intermediary personal information from said subscriber to establish a user account;

b) storing said personal information for subsequent access;

c) receiving at said intermediary a request from said subscriber to access said user account, whereupon said subscriber's identity is verified by said intermediary against said personal information;

d) responsive to successful verification of said subscriber's identity, said intermediary conducting a transaction with said vendor on behalf of said subscriber pursuant to said subscriber's instruction, wherein said transaction is conducted utilizing information about said intermediary and without disclosing said personal information about said subscriber to said vendor; and

e) notifying said subscriber upon completion of said transaction.

The following references are relied on by the Examiner:

Herman	US 6,341,353 B1	Jan. 22, 2002 (filed December 10, 1999)
Philyaw	US 6,836,799 B1	Dec. 28, 2004 (filed August 24, 1999)

Claims 1 through 30 stand rejected under 35 U.S.C. § 103. As evidence of obviousness, the Examiner relies upon Herman in view of Philyaw.

Rather than repeat the positions of the Appellant and the Examiner, reference is made to the Brief and Reply Brief for Appellant's positions, and to the Answer for the Examiner's positions.

OPINION

We reverse.

Figure 2 of the disclosed invention corresponds to the environment set forth in the claims on appeal. The claimed subscriber corresponds to the disclosed client 220 in figure 2. Likewise, the claimed intermediary corresponds to the disclosed strawman server 230. The claimed vendor corresponds to the disclosed vendor server 210. The basic approach of the disclosed and claimed invention is to preserve user privacy and anonymity in electronic transactions such that the transaction is completed without disclosing the subscriber personal information to the vendor. See the Abstract at Specification page 42.

Thus, the transaction is conducted by the intermediary with the vendor as set for in each independent claim 1, 11 and 21 on appeal. Whereas claim 1 recites that the transaction is conducted utilizing information about the intermediary, the other independent claims 11 and 21 correspondingly recite that the transaction is conducted utilizing an account of the intermediary. All claims on appeal further require that this transaction is conducted "without disclosing said personal information about said subscriber to said vendor" as disclosed.

Basically the reversal is based upon our general agreement with the views expressed by Appellant in the Brief and Reply Brief as to both references. Herman does appear to teach the use of an intermediary

conducting a transaction on behalf of a subscriber and, according to some teachings in this reference, by making use of a trusted agent server. Note figures 1, 2, 11, 13 and 14 and the corresponding teachings of these latter figures beginning at the bottom of column 38 through the bottom of column 39. There are significant teachings among the various embodiments in the reference related to transactor brokering beginning at line 1 of column 11, the topic of brokers and brokering at column 13 and the statement at the middle of column 14 that brokers “act for users” at line 38. Figure 23 also shows a trusted agent server acting on behalf of party X transacting in negotiation with party Y in accordance with the teachings beginning at the bottom of column 46.

On the one hand, while we are satisfied that Herman reasonably teaches to the artisan that a trusted agent of some kind may act as an intermediary on behalf of a subscriber or user, we find it only speculative in this reference, despite the Examiner’s assertions otherwise, that Herman teaches the transaction is conducted utilizing information about the intermediary in independent claim 1 or utilizing an account of the intermediary as required by independent claims 11 and 21 on appeal.

The Examiner recognized that the teachings in Herman do not indicate that the transaction occurs, “without disclosing said personal information about said subscriber to vendor.” Appellant agrees and so do we. On the other hand, we do not agree with the Examiner’s assertions but agree with Appellant’s views that Philyaw does not teach this feature common to each independent claim 1, 11 and 21 on appeal even though the Examiner asserts that this feature is taught in this reference. As revealed in the title of

Philyaws' patent and even the abstract, the use of the tracking ID code of the user, once the user has been registered with the a registration server, merely permits the user direct access to the vendor server for tracking purposes. As such, the teachings of Philyaw consistently fail to indicate to us that any transactions of the vendor occur without disclosing personal information about the subscriber since, as even the abstract reveals, the vendor server sends the unique ID code to the registration server once the user accesses the vendor such as to permit the vendor to obtain user profile information which matches the unique ID of the user. This interaction is best depicted in figures 26 through 28 of Philyaw.

Thus, it appears that both references relied upon by the Examiner either permit or require the user to directly contact the vendor or be revealed to the vendor, thus not meeting the negative limitation required of all claims on appeal that the transaction occur "without disclosing said personal information about said subscriber to said vendor." Therefore, even if properly combined within 35 U.S.C. § 103, the combined teachings and suggestions of Herman and Philyaw do not met the subject matter of each independent claim on appeal.

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Accordingly, the decision of the Examiner rejecting all claims on appeal under 35 U.S.C. § 103 is reversed.

REVERSED

PGC

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